

102 KAR 1:060. Refunds.

RELATES TO: KRS 161.470, 161.520, 161.700,

STATUTORY AUTHORITY: KRS 161.310, 161.470, 161.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310 requires the Board of Trustees of the Teachers' Retirement System TRS to promulgate all administrative regulations for the administration of funds of the retirement system and for the transaction of business. KRS 161.470(6) provides that members of TRS may receive a refund of their contributions, less contributions to the medical insurance fund, upon withdrawal from service. KRS 161.520 provides, if a member dies, the member's accumulated contributions may be refunded to a surviving spouse, designated beneficiary, or to the member's estate. This administrative regulation provides the administrative procedures necessary to carry out the provisions of these statutes.

Section 1. Definitions.

(1) "Alternate payee" is defined by KRS 161.220(26).

(2) "Qualified domestic relations order" or "QDRO" is defined by KRS 161.220(25).

Section 2. Refunds shall be made on the basis of permanent withdrawal from service in a covered position. A refund shall not be made if the member is under contract for employment in a covered position.

Section 3. Partial refunds of member contributions shall only be permitted when a member cancels service credit and obtains credit for the service in a state or municipal retirement system outside Kentucky as provided in 102 KAR 1:045.

Section 4. Administrative Provisions.

(1) Following permanent withdrawal from service, a member may contact TRS and request a refund application. A refund shall not be processed earlier than sixty (60) days after the member's termination date.

(2) Upon receipt of a request for a refund, TRS shall review the member's account. If the member is eligible for service retirement, the member shall not refund the account unless:

(a) Denial of the refund will prohibit the member from qualifying for Social Security benefits; or

(b) The member will be using the refund to obtain credit in another retirement plan.

(3) If the member is eligible for service retirement as provided in KRS 161.600, TRS shall provide the member with instructions on how to apply for service retirement.

(4) If the member is eligible for a refund, TRS shall forward the following:

(a) A TRS Refund Application for Withdrawal of Account Balance form;

(b) A Direct Rollover Statement;

(c) A Refund Tax Notice; and

(d) A Special Tax Notice Regarding Plan Payments.

(5) If the member worked for multiple TRS employers, Section B of the application may be duplicated as needed.

(6) TRS may accept a photocopy or facsimile of Section B of the application from the employer.

(7) If the member has not made any contributions to TRS within the last two (2) fiscal years, Section B of the application shall not be completed.

(8) The member may choose one (1) of the following payment options:

(a) Refund paid directly to the member;

(b) Refund rolled into a qualified plan or IRA; or
(c) Partial payment to the member and the remainder of the refund rolled into a qualified plan or IRA. If the member chooses the rollover option, a minimum of \$200 shall be rolled into a qualified plan or IRA.

(9) If the member chooses to have all or a portion of the refund rolled into a qualified plan or IRA, the member shall forward the Direct Rollover Statement to the qualified plan or IRA for completion.

(10) The member shall file the signed application with TRS.

(11) The member shall also provide TRS with a photocopy of the member's:

(a) Signed Social Security card; and

(b) Valid driver's license.

(12) TRS shall not process the refund until the retirement system receives the member's completed application, signed Social Security card, valid driver's license, and if necessary, Direct Rollover Statement. TRS shall compare information provided by the employer in Section B of the application to the information previously provided by the employer in the annual statement or most recent payroll report to confirm the information. If there is a discrepancy between the information in Section B of the application and the information in the annual statement or most recent payroll report, TRS shall contact the employer to reconcile the information.

(13) A refund shall be processed at either the beginning or the middle of each month, whichever is the applicable date following receipt of the properly completed application.

(14) If the member requested a direct refund of the account balance, TRS shall mail the member:

(a) The refund check; and

(b) A letter that shall include a breakout of the gross, taxable, and net amount of the refund.

(15) If the member requests a partial or full rollover of the account balance, TRS shall mail the refund check directly to the qualified plan or IRA. The member shall receive a letter that shall confirm payment of the refund to the qualified plan or IRA.

(16) If a QDRO requires a portion of a member's refund to be paid to an alternate payee, the QDRO shall be submitted to TRS for approval as required by KRS 161.700 and 102 KAR 1:320.

(a) Following approval of the QDRO by TRS and entry by a court of competent jurisdiction, if the member is eligible for, and requests a refund, TRS shall forward the documents listed in subsection (4) of this section to the member.

(b) TRS shall forward to the alternate payee the following:

1. The Qualified Domestic Relations Order (QDRO)/Application for Withdrawal of Account Balance form (QDRO/Application);

2. The Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement;

3. A Refund Tax Notice; and

4. A Special Tax Notice Regarding Plan Payments.

(c) The alternate payee shall file the QDRO/Application form with a copy of the Alternate Payee's signed Social Security card. If the alternate payee chooses to have all or a portion of his or her refund rolled into one (1) of the options set forth in subsection (8) of this section, the alternate payee shall forward the Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement to the qualified plan or IRA for completion.

(d) TRS shall respond to the alternate payee as required by either subsection (14) or (15) of this section.

(17) Upon the death of an active, contributing member, a refund of the deceased member's account balance may be paid to:

(a) A surviving spouse who meets the requirements of KRS 161.520(2)(b);

- (b) The beneficiary designated by the deceased member; or
- (c) The deceased member's estate.

(18) Upon the death of a retired member who Chose Option I, the Straight Life Annuity, a refund of contributions remaining in the deceased member's retirement account shall be made to the deceased member's designated beneficiary or estate.

(19) If a surviving spouse meets the requirements of KRS 161.520(3)(b)1 or 2 and wishes to waive the surviving spouse benefit, he or she shall execute a waiver prescribed by TRS.

(20) TRS shall forward either:

(a) A Refund Application for Deceased Member Account (Spouse or Non-Spouse Beneficiary) Form 12SP; or

(b) A Refund Application for Deceased Member Account – Estate, Form 12.

(21) A spouse or designated beneficiary may choose, if permitted by federal tax law, one (1) of the payment options set forth in subsection (8) of this Section.

(22) Photocopies of the spouse or designated beneficiary's signed Social Security card and valid driver's license shall be attached to the appropriate completed form. The refund shall be processed pursuant to subsections (13), (14), and (15) of this Section.

(23) TRS shall record the date of the refund on the member's account and designate the member's account status as refunded.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Refund Application for Withdrawal of Account Balance", 2016;

(b) "Direct Rollover Statement", 2016;

(c) "Refund Tax Notice", 2016;

(d) "Special Tax Notice Regarding Plan Payments", 2016;

(e) "Qualified Domestic Relations Order (QDRO)/Application for Withdrawal of Account Balance", 2016;

(f) "Qualified Domestic Relations Order (QDRO)/Direct Rollover Statement", 2016;

(g) "Refund Application for Deceased Member Account (Spouse or Non-Spouse Beneficiary)" Form 12SP, January, 2019; and

(h) "Refund Application for Deceased Member Account – Estate" Form 12, January, 2019;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. (TRS-9; 1 Ky.R. 136; eff. 12-11-1974; 3 Ky.R. 377; eff. 12-1-1976; 17 Ky.R. 2473; eff. 4-5-1991; 42 Ky.R. 2405, 2554; eff. 5-6-2016; Crt eff. 7-3-2019; 45 Ky.R. 2404, 3398; eff. 7-5-2019.)